

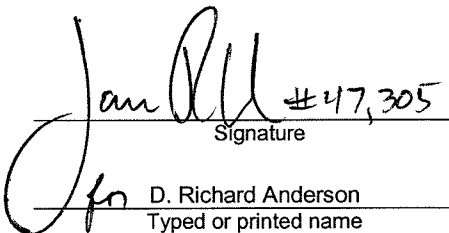
Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through 05/31/2008. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 2257-0188P	
	Application Number 09/882,028-Conf. #8801	Filed June 18, 2001	
	First Named Inventor Kazuo YOSHIOKA		
	Art Unit 2623	Examiner J. R. Schnurr	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number 40,439</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <p> Signature D. Richard Anderson Typed or printed name</p> <p>_____ (703) 205-8035 Telephone number</p> <p>_____ May 7, 2008 Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of 1 forms are submitted.</p>			

Docket No.: 2257-0188P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Kazuo YOSHIOKA

Application No.: 09/882,028

Confirmation No.: 8801

Filed: June 18, 2001

Art Unit: 2623

For: RECEIVER, DISTRIBUTION METHOD OF
RELEASE INFORMATION AND
DISTRIBUTION METHOD OF CONTENTS

Examiner: J. R. Schnurr

REASONS FOR PRE-APPEAL BRIEF REQUEST REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In addition to the Notice of Appeal which is being concurrently filed, applicant respectfully request a Pre-Appeal Brief Conference to consider the issues raised in the Office Action dated December 7, 2007.

Claims 1, 7-12, and 14-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,818,935 to Maa (hereafter "Maa") in view of U.S. Patent No. 7,177,424 to Furuya et al. (hereafter "Furuya") and U.S. Patent No. 5,901,339 to Saito (hereafter "Saito"). This rejection is respectfully traversed.

Initially, Applicants respectfully refer the panel to MPEP § 2143.03, which states:

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.
In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Applicants respectfully submit that the aforementioned references fail to provide a teaching or suggestion of all of the features in the claimed invention. For instance, the applied references fail to teach or suggest the claimed communication signal. Also, the applied references do not teach or suggest matching release information with the limitation information, as claimed.

Communication Signal

In this rejection, the Examiner acknowledges that Maa does not teach a first communication signal with a plurality of contents and corresponding content identifiers, and further containing *limitation information differing from the content identifiers*. The Examiner imports the teachings of Furuya to remedy this deficiency. Particularly, the Examiner relies on Furuya's program key *for decryption* for the claimed limitation information. The Examiner argues it would have been obvious to combine Maa and Furuya for the benefit of providing security (Office Action at page 3, 4th paragraph).

In response, Applicants respectfully submit that Furuya does not include a communication signal including contents, content identifiers, and limitation information differing from the content identifiers as claimed. Instead, Furuya's program key is transmitted over a different signal than the program and program identifier. Fig. 29 of Furuya clearly shows that the broadcast program is transmitted to the consumer I/O device via a signal on the broadcast network, while the program key is transmitted to a different signal using a different protocol (key exchange protocol; see col. 10, lines 61-64). Further, Furuya clearly illustrates the broadcast program and program key being transmitted to different devices in Fig. 29.

Furthermore, modifying Maa and Furuya to provide the program key (decryption key) in the same signal as the content would render the program key useless for providing security. Such a modification would allow everyone receiving the encrypted broadcast program to also receive the decryption key, thus defeating the purpose of encrypting the broadcast program.

Detecting Match between the Release and Limitation Information

Further, the Examiner admits that Maa/Furuya does not disclose detecting whether the limitation matches the release information to determine whether to output the content normally. To remedy this deficiency, the Examiner relies on Saito's teaching of comparing the program number tuned in by the customer receiver with the program number in the received video signal. See Office Action at page 3, last two paragraphs. Applicants respectfully submit that the proposed combination of Maa, Furuya, and Saito is still deficient.

Applicants respectfully point out that the claims recite detecting a match between limitation information, which is different from the content identifier, and release information in order to output the content normally. Conversely, Saito matches the content identifier (program number) in the video signal with the user's selected program number. Thus, Saito does not match the claimed limitation information with release information.

In fact, the Examiner's rejection appears to contradict itself. The Examiner acknowledges that the claim requires the limitation information to be different than the content identifiers in his reliance on Furuya's program key. Then, the Examiner appears to simply ignore this claim requirement in relying on Saito's matching of content identifiers to release information for the claimed matching of limitation information to release information.

Further, Applicant respectfully submits that it would not have been obvious to modify Maa/Furuya to simply detect a match between the program key (decryption key) and release information. Such a modification would be improper under § 103 because it would completely change the principle of operation of Furuya's decryption key and render it unsatisfactory for its intended purpose (see MPEP §§ 2143.01.V, VI). Decryption is not performed simply by determining whether the decryption key matches another number. Instead, decryption requires the decryption key K , along with the ciphertext C , to be processed by a mathematical decryption algorithm $D_K(C)$ in order to recover the original plaintext (see Furuya at col. 1, lines 45-54). Thus, modifying Maa/Furuya to output the content normally when a match being detected between the program key and release information is not sanctioned under § 103.

Claims Allowable over Applied References

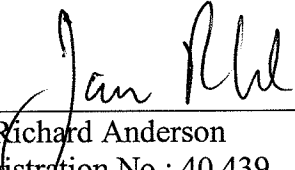
At least for the reasons set forth above, Applicants respectfully submit that independent claims 1, 12, and 14 are allowable. Accordingly, claims 7-11, 15, and 16 are allowable at least by virtue of their dependency on claims 1, 12, and 14. Therefore, the panel is respectfully requested to reconsider and withdraw this rejection.

CONCLUSION

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: May 7, 2008

Respectfully submitted,

By  #47,305
for D. Richard Anderson
Registration No.: 40,439
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant